

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTIETH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 25179 of 1997

Between:

Ghantasala Anjenuyulu, S/o. Chandraiah,
R/o. Chinthapadu Village, Mandavalli Mandal,
Krishna Dist.

..... PETITIONER

AND

- 1 The Revenue Divisional Officer,
Gudivada, Krishna Dist.
- 2 The Mandal Revenue Officer,
Madavalli, Krishna Dist.
- 3 The Deputy Executive Engineer (R&B),
Madavalli, Krishna Dist.
- 4 The Gram Panchayat ,Chintapadu, rep.by it's Executive Officer,
Chintapadu Village , Mandavalli Mandal,
Krishna Dist.

Disd. for default as per Court Order Dt:- 23.8.2000 as RR.3 & 4)

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate writ or order or direction declaring the action of the Respondents in trying to demolish the Residential building of the Petitioner in D.No. 613-628 in an extent of Ac. 2.50 Cents situated in Chintapadu Village, Mandavalli Mandal, Krishna Dist. with Asst.no. 164 as illegal, arbitrary and violative of principles of natural justice and consequently direct the Respondents not to acquire/demolish the land /structures of the petitioner without following the procedure established by law.

Counsel for the Petitioner: MR.P.SRI RAGHU RAM

Counsel for the Respondents: GP FOR REVENUE

The Court made the following :

THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 25179 of 1997

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ORDER:

By this writ petition the petitioner seeks to declare the action of the respondents in taking steps to demolish his residential building bearing door No.613-628 in an extent of Ac.2-50 cents situated in Chintapadu village, Mandavalli Mandal, Krishna District, as illegal, arbitrary and violative of principles of natural justice.

The petitioner claims to be owner of the building in question. His grievance is that the respondents, without following the due process of law and without giving him any notice, are trying to demolish part of the building in road widening programme, which is illegal and arbitrary. Hence, the writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue.

A Division Bench of this Court comprising their Lordships Honourable Sri Justice N.Y. Hanumanthappa and Honourable Sri Justice B.V. Ranga Raju in W.P. No.21198 of 1997 and Batch dated 3-2-1998 while dealing with a large number of cases where for the purpose of road widening or laying of any road, the Revenue, Panchayat Raj and Municipal authorities sought to demolish the houses or structures abutting the road, issued certain guidelines which are as under:

1. Where a property is required for public purpose viz., widening of roads or for any other purpose, the authorities straightaway cannot take law into their hands and jump into the premises, dispossess or evict the occupants or demolish the property.
2. If the authorities concerned want to take action for eviction/dispossession of the occupants or demolition, they shall issue 60 days' prior notice notifying as to the nature of the property,

the property to whom it belongs and the proposed action calling for explanation/objections if any from the occupants. On receipt of such objections, if there is any objection as to the ownership of the property, the authorities should determine the extent of encroachment of unauthorized occupation and also determine whether the property in question belongs to Government/any other local self Government or authority or the occupants and pass appropriate orders within three months from the date of receipt of the objections, after affording an opportunity of being heard to the occupants.

3. In case where demolition of private property has already been made, the authorities shall determine the damages on the basis of the assessment to be made by the Engineer of the Roads and Buildings Department and disburse the amount of damages quantified forthwith.
4. If the demolition is in respect of local bodies' Government property, the question of damages does not arise. In such an event, the occupant shall be entitled to remove the material used for the construction.
5. In case of demolition of private property, the authorities concerned shall determine the loss caused to the occupants on the basis of the assessment to be made by the Engineer of R & B Department and on such assessment of damages, the concerned authorities shall take appropriate steps to disburse the amount quantified forthwith.
6. If there is any claim for grant/assessment of the property, the concerned authorities shall consider the same in accordance with law taking into consideration the eligibility and the entitlement of occupants, after making enquiry and till such claim is decided, there shall be status-quo obtaining as on today regarding the structures.

The learned Government Pleader appearing for the respondents does not dispute the legal position.

Accordingly, the writ petition is disposed of directing the respondents to follow the guidelines issued in the above judgment. No costs.

N.V. RAMANA, J

Date: 30-03-2005

Svv

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

- 1 The Revenue Divisional Officer,
Gudivada, Krishna Dist.
 - 2 The Mandal Revenue Officer,
Madavalli, Krishna Dist.
 - 3 The Deputy Executive Engineer (R&B),
Madavalli, Krishna Dist.
 - 4 The Executive Officer, Gram Panchayat ,Chintapadu,
Chintapadu Village , Mandavalli Mandal, Krishna Dist.
- 5 Two Ccs. to the Government Pleader for Revenue, High Court Buildings,
A.P., Hyderabad (OUT).
- 6 Two CD copies

